IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 20TH NOVEMBER 2007 / 29TH KARTHIKA 1929

Bail Appl..No. 7238 of 2007()

`CRIME NO.88/05 OF TIROOR POLICE STATION.
LP.NO.65/07 OF THE JFCM, TIROOR.

.....

PETITIONER/ACCUSED NO.14

K.ASSAINAR, S/O. HAMZA,
KARATTIL HOUSE, PURATHOOR P.O., TIRUR TALUK,
MALAPPURAM DISTRICT.

BY ADV. SRI.DILIP MOHAN

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. STATION HOUSE OFFICER,
TIRUR POLICE STATION.

BY P.P. SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7238 OF 2007

Dated this the 20th day of November, 2007

ORDER

Application for anticipatory bail. The petitioner is the 14th accused in a case where he along with the co-accused faces indictment for offences punishable, inter alia, under Sec.307 read with Sec.149 of the IPC. The petitioner was not arrested and had not appeared before the court at any stage so far. Some of the co-accused, who have already been tried, were found not guilty and acquitted. The case against the petitioner has been split up and is pending before the committal court now. The case has been transferred to the list of Long Pending Cases. Coercive processes have been initiated against the petitioner. The petitioner finds such processes chasing him now.

2. According to the petitioner, he is absolutely innocent.

His absence earlier was not wilful or deliberate. He willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits, in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior

notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-
(R. BASANT, JUDGE)

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P.S. to Judge